

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

CHRISTIAN HERNANDEZ MORENO, )  
                                )  
                                )  
Petitioner,                 )  
                                )       1:19CV333  
v.                            )  
                                )       1:17CR202-1  
                                )  
UNITED STATES OF AMERICA, )  
                                )  
                                )  
Respondent.                 )

**ORDER**

This matter is before this court for review of the Recommendation, (Doc. 56), filed on February 1, 2022 by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). In the Recommendation, the Magistrate Judge recommends that Petitioner's Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence, (Doc. 46), be denied without issuance of certificate of appealability, except for the failure-to-appeal claim in Ground One, which the Court should grant by vacating and then re-entering Petitioner's Judgment to give him another opportunity to pursue a timely appeal with the assistance of new appointed counsel.

The Recommendation and notice were served on the parties on February 1, 2022 in accordance with 28 U.S.C. § 636(b). (Docs. 56, 57.) No objections were filed within the time limits

prescribed by Section 636. Petitioner filed a letter noting that he has no objections. (Doc. 58.) Therefore, the court need not make a de novo review and the Magistrate Judge's Recommendation is hereby adopted.

**IT IS THEREFORE ORDERED** that the Magistrate Judge's Recommendation, (Doc. 56), is **ADOPTED**. **IT IS FURTHER ORDERED** that Petitioner's Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence, (Doc. 46), is **DENIED** without issuance of certificate of appealability, except for the failure-to-appeal claim in Ground One, which is **GRANTED** as set out in the Recommendation, and that the Judgment of the court entered on April 23, 2018, (Doc. 32), is **VACATED**. A new judgment will be **RE-ENTERED** to allow Petitioner an opportunity to consult with counsel and pursue a timely appeal if he wishes to do so.

**IT IS FURTHER ORDERED** that new counsel be appointed to represent Petitioner for purposes of filing a timely appeal.

This the 16th day of March, 2022.

William L. Ostan, Jr.  
United States District Judge